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Part V

**Department of
Transportation**

Federal Highway Administration

Carpool and Vanpool Projects

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 656

Carpool and Vanpool Projects

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The FHWA is revising existing carpool and vanpool procedures to reflect changes required by the Surface Transportation Assistance Act of 1978. The revised rule contains the basic criteria for determining whether carpool and vanpool (ridesharing) projects are eligible for Federal-aid funding under 23 U.S.C. 146.

EFFECTIVE DATE: January 30, 1981.

FOR FURTHER INFORMATION CONTACT: Barbara Reichart, Office of Highway Planning, 202-426-0210, or Hugh T. O'Reilly, Office of the Chief Counsel, 202-426-0781, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: This rule amends the FHWA's existing carpool and vanpool regulation (23 CFR 656) as required by Section 126 of the Surface Transportation Assistance Act of 1978 (STAA) (Pub. L. 95-599, 92 Stat. 2689). The STAA changes the Federal share for carpool and vanpool projects from 90 percent to 75 percent; permits the use of Federal-aid secondary system funds for such projects; changes these projects from demonstration projects to regular Federal-aid highway projects; and declares that special efforts should be made to promote commuter modes of transportation that conserve energy, reduce pollution and reduce traffic congestion. This rule does not concern grants and loans made pursuant to subsections (e) and (f) of Section 126 of the STAA.

A notice of proposed rulemaking (NPRM) was published in the Federal Register (44 FR 70753) on December 10, 1979, requesting comments on proposed revisions to the carpool and vanpool regulation. Thirty-three letters were submitted to the public docket (No. 79-28) in response to the NPRM.

Discussion of Comments

The FHWA carefully reviewed all comments received. As many comments as possible have been incorporated into this final rule. The purpose of this preamble is to explain our actions regarding the most significant comments as well as to present our approach and

policies regarding the Federal-aid role in ridesharing transportation.

The FHWA recognizes that all ridesharing efforts, regardless of the purpose of the trips involved, help to conserve energy, reduce pollution, and reduce traffic congestion. However, the work or commute trip is the most adaptable trip purpose for ridesharing arrangements, accounting as it does for some 40 percent of all home-based trips taken by automobile. The commute trip is specifically addressed in the national policy statement in the STAA. The FHWA continues this emphasis for ridesharing projects as such projects contribute to better transportation system management, especially during peak travel periods where street and highway physical capacity is often constrained. This policy emphasis is not meant to inhibit State and local officials from implementing Federal-aid ridesharing projects that address other trip purposes where such projects are consistent with local needs and the policy objectives stated in § 656.3 of this rule.

Several comments were received regarding the size of vans which can be purchased with Federal-aid funds. The allowable passenger capacity in § 656.5(c)(3)(i) has been changed from 8 to 15 passengers to 7 to 15 passengers to accommodate smaller sized vans available in the marketplace and to be consistent with certain State motor vehicle code definitions that use the 7 passenger number criterion. Section 656.5(c)(3)(ii) requires that provision be made for repayment of the acquisition cost of the van, but also specifies two situations in which repayment may not be required where the van is used as a marketing device.

Many commenters objected to the lowering of the Federal matching ratio from 90 percent to 75 percent for Federal-aid ridesharing projects. This change was legislatively mandated by Congress in Section 126(b) of the STAA. The STAA repealed the Emergency Highway Energy Conservation Act of 1974 under which ridesharing projects were funded on a demonstration basis with a 90 percent Federal share. The STAA removed the demonstration status and incorporated ridesharing projects into the regular Federal-aid highway program, which limits the Federal share of the project cost to 75 percent (except as provided under Section 120 of Title 23 U.S.C., for certain public land States).

The FHWA has determined that a wide variety of in-kind services and activities can be accepted as the local share or "match" of the project cost. In-kind contributions permitted as local

match include properly valued public service announcements (PSA), computer services, and project-related staff time for administration by employees of public and private organizations. Private employers are particularly encouraged to commit their resources as described above in order to contribute to areawide ridesharing efforts. In general, a project-related cost that is eligible for Federal-aid funding is, when properly valued and accounted, acceptable as a local in-kind match. The FHWA believes that this flexibility should reduce the burden some States or local areas may face in providing the required local match.

Section 656.5(c)(5) indicates that Federal-aid funds will participate in the initial or renewal costs of leasing parking spaces or the acquisition of easements or restrictions to provide preferential parking for carpools. Where a reduction in the overall number of vehicles using the designated portion of a commercial parking facility can be demonstrated, that reduction may be used in computing the lease or acquisition cost for the project. However, the regulation does not permit the cost to be computed on the basis of a reduction of the per-vehicle user charge for parking in the designated area.

Another issue raised involved the use of Federal-aid Interstate (FAI) funds for ridesharing projects. This issue had two general aspects. The first was the comment offered by many that FHWA should allow FAI funds to participate in the costs to construct exclusive (not served by existing or planned transit) carpool and vanpool fringe parking facilities not located within the existing FAI right-of-way. At the present time, FHWA has authority under 23 U.S.C. 146(a) to use Federal-aid urban (FAUS), primary (FAP) and secondary (FAS) system funds for such carpool and vanpool fringe parking facilities. Regarding FAI funds, FHWA has authority to use these funds to construct exclusive carpool and vanpool fringe parking facilities within existing FAI right-of-way. Outside existing right-of-way, FAI funds may be used for carpool and vanpool fringe parking facilities only when such facilities serve existing or planned public mass transportation service.

It should be emphasized that other regular construction projects such as constructing high occupancy vehicle (HOV) lanes and facilities and multimodal fringe parking facilities can be funded with all categories of Federal-aid funds including FAI funds.

The second aspect of FAI funding involved numerous suggestions that these funds be eligible to participate in

the administrative costs of ridesharing programs. Currently, 23 U.S.C. 146(a) specifically authorizes the use of FAUS, FAP, and FAS funds for such purposes. The FHWA believes that these three classes of funds have considerable untapped potential to support ridesharing projects and strongly encourages State and local officials to give priority to ridesharing projects in the annual programs of projects prepared by the States.

Another concern raised by commenters is the language in § 656.5(a) that ridesharing projects "must serve a Federal-aid system" and be financed with the appropriate class of eligible funds, "depending on the system served." This is merely a restatement of FHWA policy that Federal-aid funds should be used for projects that will improve the people-moving efficiency of the overall Federal-aid system, and that the class of funds used should depend on the system benefited by the expenditure. In projects involving physical facilities, such as providing a bus and carpool lane, the class of Federal-aid funds to use is usually obvious. With respect to other ridesharing projects such as promotion and matching programs or van acquisition, which by their nature cannot be limited to a specific physical facility, State and local officials must decide which Federal-aid system will receive the primary benefit and use that class of funds for the project. Splitting or prorating of costs among different system funds for a nonconstruction, ridesharing project that serves a geographic area is neither required nor encouraged.

Many commenters suggested that the requirement in § 656.5(b) that Federal-aid carpool and vanpool projects not have "an adverse effect on any mass transportation system" be deleted. This restriction is specifically included in the authorizing legislation (STAA) and therefore cannot be administratively deleted. In considering this legislation, the congressional conferees addressed the "adverse effect" issue in their Conference Report and stated that an adverse effect had to be an "appreciable adverse impact," more than a *de minimis* effect. The FHWA believes that the intent of this requirement is consistent with the policy and practice followed by Federal-aid ride-sharing projects since 1974, i.e., ridesharing projects are intended to complement public transportation and accommodate travel demands that transit cannot conveniently accommodate on a cost-effective basis. Carpools and vanpools are viewed as integral parts of a

balanced transportation system that complement and enhance the efforts of public and private transit services to broaden the alternatives to the single-occupancy automobile. Ridesharing operations are particularly complementary for low-density and suburb-to-suburb trips not efficiently served by fixed-route, radial transit services and where adequate peak-period transit service is not available. In many cases, carpooling and vanpooling activities help to identify potential transit expansion markets and for many commuters serve as the first step in shared riding, preparing them to become transit riders as service expands.

The FHWA believes that institutional processes are in place that ensure coordination of transportation planning and project funding and protection against appreciable adverse impacts. The metropolitan planning organization, comprised of local elected officials and with representation of other agencies, including transit operators, provides the primary mechanism to ensure that ridesharing projects do not have a substantial adverse effect on area transit service. It should be noted that several transit agencies currently use Federal-aid funds to support ridesharing projects to complement their existing transit service. The FHWA welcomes these ridesharing program partners and strongly encourages other transit operators to support ridesharing projects.

Other Considerations

The FHWA believes the promotional advocacy role the Federal Government is taking with respect to ridesharing is creating an organization commitment within the transportation profession and between leaders in both the public and private sectors to implement and expand ridesharing opportunities, including highway-related incentives such as preferential HOV lanes. If a sudden and severe energy shortage were to take place, expansion of ridesharing arrangements could proceed without delay. Such a rapid response to a crisis situation could diminish the need for other emergency measures and help relieve the crisis conditions. Apart from emergency contingencies, public officials and private employers are increasingly regarding ridesharing as an effective tool of community and economic development, harnessing the efficient use of private vehicles to serve the public interest.

The FHWA's primary involvement is to provide a safe and adequate physical network of streets and highways, including funding of ridesharing incentives, to hasten the removal of

legal and regulatory barriers that inhibit the growth of ridesharing and to provide information, technical assistance, and encouragement to accelerate and enhance ridesharing.

Ridesharing as a practice has grown rapidly beyond its carpool origins and is still evolving as a concept. This rule addresses the use of Federal-aid highway funds to help support and carry out carpool and vanpool projects, the backbone of the ridesharing concept.

This regulation will have no significant economic effect as it will not increase spending. The regulation will merely implement the policies set forth in the STAA. For these reasons the FHWA has determined that this document does not contain a significant regulation under the criteria established by the U.S. Department of Transportation pursuant to Executive Order 12044. A regulatory evaluation is available for inspection in the public docket and may be obtained by contacting Barbara Reichart of the program office at the address specified above.

In consideration of the foregoing and under the authority of 23 U.S.C. 146 and 315, and section 126 of the STAA (Public Law 95-599, 92 Stat. 2689) and the delegation of authority by the Secretary of Transportation in 49 CFR 1.48(b), Chapter 1 of Title 23, Code of Federal Regulations, Part 656 is revised as set forth below.

(Catalog of Federal Domestic Assistance Program Number 20205, Highway Research, Planning and Construction. The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

Issued on: December 30, 1980.

John S. Hassell, Jr.,
Federal Highway Administrator.

23 CFR Part 656 is revised to read as follows:

PART 656—CARPOOL AND VANPOOL PROJECTS

- Sec.
- 656.1 Purpose.
- 656.3 Policy.
- 656.5 Eligibility.
- 656.7 Property management.

Authority: 23 U.S.C. 146 and 315; section 126 of the Surface Transportation Assistance Act of 1978, Pub. L. 95-599, 92 Stat. 2689; 49 CFR 1.48(b).

§ 656.1 Purpose.

The purpose of this regulation is to prescribe policies and general procedures for administering a program of ridesharing projects using Federal-aid primary, secondary, and urban system funds.

§ 656.3 Policy.

Section 128(d) of the Surface Transportation Assistance Act of 1978 declares that special effort should be made to promote commuter modes of transportation which conserve energy, reduce pollution, and reduce traffic congestion.

§ 656.5 Eligibility.

(a) Projects which promote ridesharing programs need not be located on but must serve a Federal-aid system to be eligible for Federal-aid primary, secondary, or urban system funds depending on the system served. The Federal share payable will be in accordance with the provisions of 23 U.S.C 120. Except for paragraph (c)(3) of this section, for all purposes of this regulation the term "carpool" includes "vanpool."

(b) Projects shall not be approved under this regulation if they will have an adverse effect on any mass transportation system.

(c) The following types of projects and work are considered eligible under this program:

(1) Systems, whether manual or computerized, for locating potential participants in carpools and informing them of the opportunities for participation. Eligible costs for such systems may include costs of use or rental of computer hardware, costs of software, and installation costs (including both labor and other related items).

(2) Specialized procedures to provide carpooling opportunities to elderly or handicapped persons.

(3) The costs of acquiring vanpool vehicles and actual financial losses that occur when the operation of any vanpool is aborted before the scheduled termination date for the reason, concurred in by the State, that its continuation is no longer productive. The cost of acquiring a vanpool vehicle is eligible under the following conditions:

(i) The vanpool vehicle is a four-wheeled vehicle manufactured for use on public highways for transportation of 7-15 passengers (no buses, passenger cars or station wagons); and

(ii) Provision is made for repayment of acquisition cost to the project within the passenger-service life of the vehicle. Repayment may be accomplished through the charging of a reasonable user fee based on an estimated number of riders per vehicle and the cost of reasonable vehicle depreciation, operation, and maintenance. Repayment is not required under the following conditions:

(A) When vehicles are purchased as demonstrator vans for use as a marketing device. Vehicles procured for this purpose should be used to promote the vanpool concept among employees, employers, and other groups by allowing potential riders and sponsors to examine commuter vans; or

(B) When vehicles are purchased for use on a trial commuting basis to enable people to experience vanpooling first hand. The trial period must be limited to a maximum of 2 months. That part of the user fee normally collected to cover the capital or ownership cost of the van would be eligible for reimbursement as a promotional cost during the limited trial period. As with established vanpool service, all vehicle operating costs must be borne by the user(s) during the trial period.

(4) Work necessary to designate existing highway lanes as preferential carpool lanes or bus and carpool lanes. Eligible work may include preliminary engineering to determine traffic flow and design criteria, signing, pavement markings, traffic control devices, and minor physical modifications to permit the use of designated lanes as preferential carpool lanes or bus and carpool lanes. Such improvements on any public road may be approved if such projects facilitate more efficient use of any Federal-aid highway. Eligible costs may also include costs of initial inspection or monitoring of use, including special equipment, to ensure that the high occupancy vehicle (HOV) lane designation is effective and that the project is fully developed and operating properly.

(5) Signing of and modifications to existing facilities to provide preferential parking for carpools inside or outside the central business district. Eligible costs may include trial blazers, site signs designating highway interchange areas or other existing publicly or privately owned facilities as preferential parking for carpool participants, and initial or renewal costs for leasing parking space or acquisition of easements or restrictions, as, for example, at shopping centers and public or private parking facilities. The lease or acquisition cost may be computed on the demonstrated reduction in the overall number of vehicles using the designated portion of a commercial facility, but not on a reduction of the per-vehicle user charge for parking.

(6) Construction of carpool parking facilities outside the central business district. Eligible costs may include acquisition of land and normal construction activities, including installation of lighting and fencing, trail blazers, on-site signing, and passenger

shelters. Such facilities need not be located in conjunction with any existing or planned mass transportation service, but should be designed so that the facility could accommodate mass transportation in the event such service may be developed. Except for the requirement of the availability of mass/public transportation facilities, when funded with Federal-aid Interstate funds, fringe parking construction shall be subject to the provisions of 23 CFR 810.106.

(7) Reasonable public information and promotion expenses, including personnel costs, incurred in connection with any of the other eligible items mentioned herein.

§ 656.7 Property management.

All of the applicable provisions of OMB Circular A-102, Appendix N, concerning property management standards shall apply.

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